

AMENDED IN ASSEMBLY JULY 7, 2009

AMENDED IN ASSEMBLY JUNE 22, 2009

AMENDED IN SENATE MAY 26, 2009

AMENDED IN SENATE MAY 5, 2009

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 273

**Introduced by Senator Corbett
(Coauthor: Senator Alquist)**

February 24, 2009

An act to amend Sections 124250 and 124251 of the Health and Safety Code, and to amend Section 13823.15 of the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

SB 273, as amended, Corbett. Domestic violence.

Existing law requires the Maternal, Child, and Adolescent Health Division of the State Department of Public Health to administer a comprehensive shelter-based service grant program to battered women's shelters. Existing law also requires the Office of Emergency Services, now the California Emergency Management Agency, to conduct a *comprehensive* statewide domestic violence program to provide assistance to victims of domestic violence in unserved and underserved areas. Both of these programs define "domestic violence" to mean the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, and shall include physical, sexual, and psychological abuse against the woman, and is a part of a pattern

of assaultive, coercive, and controlling behaviors directed at achieving compliance from, or control over, that woman.

This bill would change the definition of domestic violence under both of the above programs to mean the infliction or threat of physical harm against past or present adult or adolescent intimate partners, to include physical, sexual, and psychological abuse against the partner, that is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from, or control over, that partner. The bill would also make the department's comprehensive shelter-based service grant program subject to specified antidiscrimination provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In 1994, the Legislature enacted the Battered Women
4 Protection Act (BWPA) providing for a comprehensive
5 shelter-based services program for battered women and children.
6 Passage of the BWPA was a recognition of the serious magnitude
7 of domestic violence and the need to provide funding to increase
8 protection for female victims and their children.

9 (b) Despite efforts by the state to address the problem of
10 domestic violence, it remains an issue of serious public concern
11 and growing magnitude. Women, in particular, continue to be
12 victims of domestic violence at a disproportionate rate.

13 (c) In 2006, there were 86 domestic homicides by a spouse or
14 common law partner. The victims included 69 females and 17
15 males.

16 (d) In 2007, there were 119 murders committed in California
17 as the result of intimate partner violence. The victims included
18 101 females and 18 males who were killed by their partners.

19 (e) As of April 2008, there were 246,444 domestic
20 violence-related orders on file with the Department of Justice,
21 including emergency protective orders, temporary restraining
22 orders, orders after hearing, other domestic violence orders, and
23 criminal protective orders.

1 (f) The National Crime Victimization Survey found that women
2 are six times more likely than men to experience violence at the
3 hands of an intimate partner.

4 (g) Many economic risks associated with domestic violence
5 also disproportionately affect abused women, including
6 homelessness, income decline upon separation, and financial
7 dependency on partners.

8 (h) In providing and funding comprehensive shelter-based
9 services to all victims of domestic violence, the state has a
10 compelling interest in acknowledging the quantitative difference
11 in the number of male and female victims, as well as the qualitative
12 differences in the nature of the violence experienced by male and
13 female victims so that resources may be properly allocated.

14 (i) It is the intent of the Legislature that the State Department
15 of Public Health have as purposes and goals that all victims of
16 domestic violence served by the department's Maternal, Child,
17 and Adolescent Health Division receive comprehensive, quality
18 services and that resources are distributed to where there is the
19 most need.

20 SEC. 2. Section 124250 of the Health and Safety Code is
21 amended to read:

22 124250. (a) The following definitions shall apply for purposes
23 of this section:

24 (1) "Domestic violence" means the infliction or threat of
25 physical harm against past or present adult or adolescent intimate
26 partners, and shall include physical, sexual, and psychological
27 abuse against the partner, and is a part of a pattern of assaultive,
28 coercive, and controlling behaviors directed at achieving
29 compliance from or control over, that partner.

30 (2) "Shelter-based" means an established system of services
31 where victims of domestic violence and their children may be
32 provided safe or confidential emergency housing on a 24-hour
33 basis, including, but not limited to, hotel or motel arrangements,
34 haven, and safe houses.

35 (3) "Emergency shelter" means a confidential or safe location
36 that provides emergency housing on a 24-hour basis for victims
37 of domestic violence and their children.

38 (b) The Maternal, Child, and Adolescent Health Division of the
39 State Department of Public Health shall administer a
40 comprehensive shelter-based services grant program to battered

1 women's shelters pursuant to this section. This program shall
2 comport with the requirements of Section 11135 of the Government
3 Code.

4 (c) The Maternal, Child, and Adolescent Health Division shall
5 administer grants, awarded as the result of a request for application
6 process, to battered women's shelters that propose to maintain
7 shelters or services previously granted funding pursuant to this
8 section, to expand existing services or create new services, and to
9 establish new battered women's shelters to provide services, in
10 any of the following four areas:

11 (1) Emergency shelter to victims of domestic violence and their
12 children escaping violent family situations.

13 (2) Transitional housing programs to help victims of domestic
14 violence and their children find housing and jobs so they are not
15 forced to choose between returning to a violent relationship or
16 becoming homeless. The programs may offer up to 18 months of
17 housing, case management, job training and placement, counseling,
18 support groups, and classes in parenting and family budgeting.

19 (3) Legal and other types of advocacy and representation to help
20 victims of domestic violence and their children pursue appropriate
21 legal options.

22 (4) Other support services for victims of domestic violence and
23 their children.

24 (d) (1) The Maternal, Child, and Adolescent Health Division
25 shall conduct a minimum of one site visit per grant term to each
26 agency funded to provide shelter-based services to victims of
27 domestic violence and their children. The purpose of the site visit
28 shall be a performance assessment of, and technical assistance for,
29 each agency visited. The performance assessment shall include,
30 but need not be limited to, a review of all of the following:

31 (A) Progress in meeting program goals and objectives.

32 (B) Agency organization and facilities.

33 (C) Personnel policies, files, and training.

34 (D) Recordkeeping, budgeting, and expenditures.

35 (E) Documentation, data collection, and client confidentiality.

36 (2) Subsequent to each site visit conducted under paragraph (1),
37 the Maternal, Child, and Adolescent Health Division shall provide
38 a written report to the agency summarizing the agency's
39 performance, deficiencies noted, and corrective action needed.

(3) If an agency receives funding from both the Maternal, Child, and Adolescent Health Division and the *Comprehensive Statewide Domestic Violence Program* in the California Emergency Management Agency during any grant cycle, the Maternal, Child, and Adolescent Health Division and the *Comprehensive Statewide Domestic Violence Program* shall, to the extent feasible, coordinate agency site visits and share performance assessment data with the goal of improving efficiency, eliminating duplication, and reducing administrative costs.

(e) In implementing the grant program pursuant to this section, the department shall consult with an advisory council that shall remain in existence until January 1, 2010. The council shall be composed of not to exceed 13 voting members and two nonvoting ex officio members appointed as follows:

(1) Seven members appointed by the Governor.

(2) Three members appointed by the Speaker of the Assembly.

(3) Three members appointed by the Senate Committee on Rules.

(4) Two nonvoting ex officio members who shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with, and participate in the activities of, the council to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

The membership of the council shall consist of domestic violence advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence, and at least one representative of service providers serving the lesbian, gay, bisexual, and transgender community for purposes of domestic violence. At least one-half of the council membership shall consist of domestic violence advocates or battered women service providers from organizations such as the California Partnership to End Domestic Violence.

It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state.

(f) The department shall collaborate closely with the council in the development of funding priorities, the framing of the Request for Proposals, and the solicitation of proposals.

(g) (1) The Maternal, Child, and Adolescent Health Division shall administer grants, awarded as the result of a request for application process, to agencies to conduct demonstration projects to serve victims of domestic violence, including, but not limited to, creative and innovative service approaches, such as community response teams and pilot projects to develop new interventions emphasizing prevention and education, and other support projects identified by the advisory council.

(2) For purposes of this subdivision, “agency” means a state agency, a local government, a community-based organization, or a nonprofit organization.

(h) It is the intent of the Legislature that services funded by this program include services for victims of domestic violence in underserved communities, including the lesbian, gay, bisexual, and transgender community, and ethnic and racial communities. Therefore, the Maternal, Child, and Adolescent Health Division shall do all of the following:

(1) Fund shelters pursuant to this section that reflect the ethnic, racial, economic, cultural, and geographic diversity of the state.

(2) Target geographic areas and ethnic and racial communities of the state whereby, based on a needs assessment, it is determined that no shelter-based services for battered women exist or that additional resources are necessary.

(i) The director may award additional grants to shelter-based agencies when it is determined that there exists a critical need for shelter or shelter-based services.

(j) As a condition of receiving funding pursuant to this section, battered women’s shelters shall do both of the following:

(1) Provide matching funds or in-kind contributions equivalent to not less than 20 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(2) Ensure that appropriate staff and volunteers having client contact meet the definition of “domestic violence counselor” as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be

1 provided to those staff and volunteers who do not meet the
2 requirements of paragraph (1) of subdivision (a) of Section 1037.1
3 of the Evidence Code.

4 SEC. 3. Section 124251 of the Health and Safety Code is
5 amended to read:

6 124251. (a) The Maternal, Child, and Adolescent Health
7 Division of the State Department of Public Health shall fund,
8 through a competitive selection process determined by the director,
9 at least one agency to provide expert technical assistance and
10 training on domestic violence issues and building agency capacity
11 in order to obtain other funding for services for victims of domestic
12 violence, including, but not limited to, grant writing and building
13 coalitions.

14 (b) The Maternal, Child, and Adolescent Health Division shall
15 fund at least one agency to conduct a statewide evaluation of the
16 services funded through Section 124250.

17 (c) For purposes of subdivision (a), “agency” means a state
18 agency, local government, a community-based organization, or a
19 nonprofit agency.

20 (d) Contracts awarded pursuant to this section are exempt from
21 the competitive bidding requirements of the Public Contract Code.

22 SEC. 4. Section 13823.15 of the Penal Code is amended to
23 read:

24 13823.15. (a) The Legislature finds the problem of domestic
25 violence to be of serious and increasing magnitude. The Legislature
26 also finds that existing domestic violence services are underfunded
27 and that some areas of the state are unserved or underserved.
28 Therefore, it is the intent of the Legislature that a goal or purpose
29 of the California Emergency Management Agency (Cal EMA)
30 shall be to ensure that all victims of domestic violence served by
31 the Cal EMA Comprehensive Statewide Domestic Violence
32 Program receive comprehensive, quality services.

33 (b) There is in the Cal EMA a Comprehensive Statewide
34 Domestic Violence Program. The goals of the program shall be to
35 provide local assistance to existing service providers, to maintain
36 and expand services based on a demonstrated need, and to establish
37 a targeted or directed program for the development and
38 establishment of domestic violence services in currently unserved
39 and underserved areas. The Cal EMA shall provide financial and

1 technical assistance to local domestic violence centers in
2 implementing all of the following services:

- 3 (1) Twenty-four-hour crisis hotlines.
- 4 (2) Counseling.
- 5 (3) Business centers.
- 6 (4) Emergency “safe” homes or shelters for victims and families.
- 7 (5) Emergency food and clothing.
- 8 (6) Emergency response to calls from law enforcement.
- 9 (7) Hospital emergency room protocol and assistance.
- 10 (8) Emergency transportation.
- 11 (9) Supportive peer counseling.
- 12 (10) Counseling for children.
- 13 (11) Court and social service advocacy.
- 14 (12) Legal assistance with temporary restraining orders, devices,
15 and custody disputes.
- 16 (13) Community resource and referral.
- 17 (14) Household establishment assistance.

18 Priority for financial and technical assistance shall be given to
19 emergency shelter programs and “safe” homes for victims of
20 domestic violence and their children.

21 (c) Except as provided in subdivision (f), the Cal EMA and the
22 advisory committee established pursuant to Section 13823.16 shall
23 collaboratively administer the Comprehensive Statewide Domestic
24 Violence Program, and shall allocate funds to local centers meeting
25 the criteria for funding. All organizations funded pursuant to this
26 section shall utilize volunteers to the greatest extent possible.

27 The centers may seek, receive, and make use of any funds which
28 may be available from all public and private sources to augment
29 state funds received pursuant to this section.

30 Centers receiving funding shall provide cash or an in-kind match
31 of at least 10 percent of the funds received pursuant to this section.

32 (d) The Cal EMA shall conduct statewide training workshops
33 on domestic violence for local centers, law enforcement, and other
34 service providers designed to enhance service programs. The
35 workshops shall be planned in conjunction with practitioners and
36 experts in the field of domestic violence prevention. The workshops
37 shall include a curriculum component on lesbian, gay, bisexual,
38 and transgender specific domestic abuse.

39 (e) The Cal EMA shall develop and disseminate throughout the
40 state information and materials concerning domestic violence. The

1 Cal EMA shall also establish a resource center for the collection,
2 retention, and distribution of educational materials related to
3 domestic violence. The Cal EMA may utilize and contract with
4 existing domestic violence technical assistance centers in this state
5 in complying with the requirements of this subdivision.

6 (f) The funding process for distributing grant awards to domestic
7 violence shelter service providers (DVSSPs) shall be administered
8 by the Cal EMA as follows:

9 (1) The Cal EMA shall establish each of the following:

10 (A) The process and standards for determining whether to grant,
11 renew, or deny funding to any DVSSP applying or reapplying for
12 funding under the terms of the program.

13 (B) For DVSSPs applying for grants under the request for
14 proposal process described in paragraph (2), a system for grading
15 grant applications in relation to the standards established pursuant
16 to subparagraph (A), and an appeal process for applications that
17 are denied. A description of this grading system and appeal process
18 shall be provided to all DVSSPs as part of the application required
19 under the RFP process.

20 (C) For DVSSPs reapplying for funding under the request for
21 application process described in paragraph (4), a system for grading
22 the performance of DVSSPs in relation to the standards established
23 pursuant to subparagraph (A), and an appeal process for decisions
24 to deny or reduce funding. A description of this grading system
25 and appeal process shall be provided to all DVSSPs receiving
26 grants under this program.

27 (2) Grants for shelters that were not funded in the previous cycle
28 shall be awarded as a result of a competitive request for proposal
29 (RFP) process. The RFP process shall comply with all applicable
30 state and federal statutes for domestic violence shelter funding
31 and, to the extent possible, the response to the RFP shall not exceed
32 25 narrative pages, excluding attachments.

33 (3) Grants shall be awarded to DVSSPs that propose to maintain
34 shelters or services previously granted funding pursuant to this
35 section, to expand existing services or create new services, or to
36 establish new domestic violence shelters in underserved or
37 unserved areas. Each grant shall be awarded for a three-year term.

38 (4) DVSSPs reapplying for grants shall not be subject to a
39 competitive grant process, but shall be subject to a request for
40 application (RFA) process. The RFA process shall consist in part

1 of an assessment of the past performance history of the DVSSP
2 in relation to the standards established pursuant to paragraph (1).
3 The RFA process shall comply with all applicable state and federal
4 statutes for domestic violence center funding and, to the extent
5 possible, the response to the RFA shall not exceed 10 narrative
6 pages, excluding attachments.

7 (5) A DVSSP funded through this program in the previous grant
8 cycle, including a DVSSP funded by Chapter 707 of the Statutes
9 of 2001, shall be funded upon reapplication, unless, pursuant to
10 the assessment required under the RFA process, its past
11 performance history fails to meet the standards established by the
12 Cal EMA pursuant to paragraph (1).

13 (6) The Cal EMA shall conduct a minimum of one site visit
14 every three years for each DVSSP funded pursuant to this
15 subdivision. The purpose of the site visit shall be to conduct a
16 performance assessment of, and provide subsequent technical
17 assistance for, each shelter visited. The performance assessment
18 shall include, but need not be limited to, a review of all of the
19 following:

20 (A) Progress in meeting program goals and objectives.

21 (B) Agency organization and facilities.

22 (C) Personnel policies, files, and training.

23 (D) Recordkeeping, budgeting, and expenditures.

24 (E) Documentation, data collection, and client confidentiality.

25 (7) After each site visit conducted pursuant to paragraph (6),
26 the Cal EMA shall provide a written report to the DVSSP
27 summarizing the performance of the DVSSP, deficiencies noted,
28 corrective action needed, and a deadline for corrective action to
29 be completed. The Cal EMA shall also develop a corrective action
30 plan for verifying the completion of corrective action required.
31 The Cal EMA shall submit its written report to the DVSSP no
32 more than 60 days after the site visit. No grant under the RFA
33 process shall be denied if the DVSSP has not received a site visit
34 during the previous three years, unless the Cal EMA is aware of
35 criminal violations relative to the administration of grant funding.

36 (8) If an agency receives funding from both the Comprehensive
37 Statewide Domestic Violence Program in the California Emergency
38 Management Agency and the Maternal, Child, and Adolescent
39 Health Division of the State Department of Public Health during
40 any grant cycle, the Comprehensive Statewide Domestic Violence

1 Program and the Maternal, Child, and Adolescent Health Division
2 shall, to the extent feasible, coordinate agency site visits and share
3 performance assessment data with the goal of improving efficiency,
4 eliminating duplication, and reducing administrative costs.

5 (9) DVSSPs receiving written reports of deficiencies or orders
6 for corrective action after a site visit shall be given no less than
7 six months' time to take corrective action before the deficiencies
8 or failure to correct may be considered in the next RFA process.
9 However, the Cal EMA shall have the discretion to reduce the time
10 to take corrective action in cases where the deficiencies present a
11 significant health or safety risk or when other severe circumstances
12 are found to exist. If corrective action is deemed necessary, and a
13 DVSSP fails to comply, or if other deficiencies exist that, in the
14 judgment of the Cal EMA, cannot be corrected, the Cal EMA shall
15 determine, using its grading system, whether continued funding
16 for the DVSSP should be reduced or denied altogether. If a DVSSP
17 has been determined to be deficient, the Cal EMA may, at any
18 point during the DVSSP's funding cycle following the expiration
19 of the period for corrective action, deny or reduce further funding.

20 (10) If a DVSSP applies or reapplies for funding pursuant to
21 this section and that funding is denied or reduced, the decision to
22 deny or reduce funding shall be provided in writing to the DVSSP,
23 along with a written explanation of the reasons for the reduction
24 or denial made in accordance with the grading system for the RFP
25 or RFA process. Except as otherwise provided, an appeal of the
26 decision to deny or reduce funding shall be made in accordance
27 with the appeal process established by the Cal EMA. The appeal
28 process shall allow a DVSSP a minimum of 30 days to appeal after
29 a decision to deny or reduce funding. All pending appeals shall be
30 resolved before final funding decisions are reached.

31 (11) It is the intent of the Legislature that priority for additional
32 funds that become available shall be given to currently funded,
33 new, or previously unfunded DVSSPs for expansion of services.
34 However, the Cal EMA may determine when expansion is needed
35 to accommodate underserved or unserved areas. If supplemental
36 funding is unavailable, the Cal EMA shall have the authority to
37 lower the base level of grants to all currently funded DVSSPs in
38 order to provide funding for currently funded, new, or previously
39 unfunded DVSSPs that will provide services in underserved or
40 unserved areas. However, to the extent reasonable, funding

1 reductions shall be reduced proportionately among all currently
2 funded DVSSPs. After the amount of funding reductions has been
3 determined, DVSSPs that are currently funded and those applying
4 for funding shall be notified of changes in the available level of
5 funding prior to the next application process. Funding reductions
6 made under this paragraph shall not be subject to appeal.

7 (12) Notwithstanding any other provision of this section, Cal
8 EMA may reduce funding to a DVSSP funded pursuant to this
9 section if federal funding support is reduced. Funding reductions
10 as a result of a reduction in federal funding shall not be subject to
11 appeal.

12 (13) Nothing in this section shall be construed to supersede any
13 function or duty required by federal acts, rules, regulations, or
14 guidelines for the distribution of federal grants.

15 (14) As a condition of receiving funding pursuant to this section,
16 DVSSPs shall do all of the following:

17 (A) Provide matching funds or in-kind contributions equivalent
18 to not less than 10 percent of the grant they would receive. The
19 matching funds or in-kind contributions may come from other
20 governmental or private sources.

21 (B) Ensure that appropriate staff and volunteers having client
22 contact meet the definition of “domestic violence counselor” as
23 specified in subdivision (a) of Section 1037.1 of the Evidence
24 Code. The minimum training specified in paragraph (2) of
25 subdivision (a) of Section 1037.1 of the Evidence Code shall be
26 provided to those staff and volunteers who do not meet the
27 requirements of paragraph (1) of subdivision (a) of Section 1037.1
28 of the Evidence Code.

29 (15) The following definitions shall apply for purposes of this
30 subdivision:

31 (A) “Domestic violence” means the infliction or threat of
32 physical harm against past or present adult or adolescent intimate
33 partners, including physical, sexual, and psychological abuse
34 against the partner, and is a part of a pattern of assaultive, coercive,
35 and controlling behaviors directed at achieving compliance from
36 or control over that person.

37 (B) “Domestic violence shelter service provider” or “DVSSP”
38 means a victim services provider that operates an established
39 system of services providing safe and confidential emergency
40 housing on a 24-hour basis for victims of domestic violence and

1 their children, including, but not limited to, hotel or motel
2 arrangements, haven, and safe houses.

3 (C) “Emergency shelter” means a confidential or safe location
4 that provides emergency housing on a 24-hour basis for victims
5 of domestic violence and their children.

6 (g) The Cal EMA may hire the support staff and utilize all
7 resources necessary to carry out the purposes of this section. The
8 Cal EMA shall not utilize more than 10 percent of funds
9 appropriated for the purpose of the program established by this
10 section for the administration of that program.